



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

December 3, 2019

VIA ECF

Honorable Alison J. Nathan
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

DEC 04 2019

Re: *Natural Resources Defense Council, et al. v. Dep't of the Interior, et al.*, 18 Civ. 6903 (AJN)

Dear Judge Nathan:

This Office represents the defendants (collectively, the "Government") in the above-referenced Administrative Procedure Act case. I write to request a protective order pursuant to Federal Rule of Civil Procedure 5.2(e), to permit the Government to redact certain personal information from the administrative record that will be filed in this case.

Consistent with the current scheduling order, Dkt. No. 67, the Government intends to file the administrative record compiled by the Department of the Interior later today. In order to protect the privacy interests of third parties, we propose certain redactions. The ordinary redaction requirements of Rule 5.2(a) do not apply to the administrative record for an agency proceeding. *See* Fed. R. Civ. P. 5.2(b)(2). Nonetheless, protecting the substantial privacy of third parties, including over sensitive personal information, constitutes "good cause" pursuant to Rule 5.2(e)(1). Release into the public domain of information such as full birth dates could expose individuals to financial harm, and release of information relating to law enforcement actions, liens, or bankruptcies could expose the individuals involved to unnecessary embarrassment. Furthermore, though the public generally has a right of access to court filings, *see, e.g., Nycomed US, Inc. v. Glenmark Generics, Inc.*, No. 08-CV-5023 CBA, 2010 WL 889799, at *2 (E.D.N.Y. Mar. 8, 2010), these minimal redactions are of material that has little bearing on the substance of this case, and will not materially affect the public's ability to understand these proceedings. *See id.* at *3 (public interest in documents runs on a "continuum," and the public's right to access "depends on the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts") (quotation marks omitted).

The specific redactions the Government proposes all relate to individuals who were nominated for membership on the International Wildlife Conservation Council (the "Council"), the federal advisory committee at issue in this case. Almost all of the redactions are to background check materials collected by the Government during the process of vetting those

potential Council members. We propose the following redactions, all of which are within the range of the administrative record that has been Bates-stamped DOI_0052-324:

- birth dates (other than the year);
- information about bankruptcy filings;
- information about judgments and liens, including UCC filings; and
- criminal record information, including arrest and criminal court reports.

In response to the Government's request for Plaintiffs' position on this request, Plaintiffs stated that they wish to defer giving their position until after this letter motion is filed.


Thank you for your consideration of this request.

Respectfully submitted,

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SO ORDERED: 12/4/9



HON. ALISON J. NATHAN
UNITED STATES DISTRICT JUDGE

cc: Counsel for Plaintiffs (by ECF)

The Government's request for the redactions discussed in this letter is GRANTED.

Pursuant to the Undersigned's Individual Practices in Civil Cases Rule 4.B, the Government must email an unredacted version to Chambers at the time of filing.

Nothing in this Order affects the parties' obligation to comply with Rule 4 of the Court's Individual Practices in Civil Cases governing redactions and filing under seal, or with any of the Court's other Individual Practices as relevant.
SO ORDERED.